

SENAT

EXHIBIT NO. 1

DATE

3/25/13

BILL NO.

8B374

## SENATE BILL NO. 374

INTRODUCED BY D. LEWIS

GREYBILL INCORPORATING AMENDS SB037402.apm

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF PUBLIC CHARTER SCHOOLS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL OPPORTUNITIES; DEFINING PUBLIC CHARTER SCHOOLS; PROVIDING FOR AUTONOMY OF PUBLIC CHARTER SCHOOLS THROUGH EXEMPTION FROM TITLE 20, MCA; ESTABLISHING A PUBLIC CHARTER SCHOOL COMMISSION; ESTABLISHING CHARTER AUTHORIZERS FOR OVERSEEING PUBLIC CHARTER SCHOOLS; PROVIDING AN OVERSIGHT FEE FOR CHARTER AUTHORIZERS; PROVIDING FOR CREATION, RENEWAL, REVOCATION, AND CLOSURE OF PUBLIC CHARTER SCHOOLS; PROVIDING FOR PERFORMANCE MEASURES FOR PUBLIC CHARTER SCHOOLS; EXEMPTING PUBLIC CHARTER SCHOOL TEACHERS FROM STATE CERTIFICATION REQUIREMENTS; PROVIDING FOR FUNDING OF PUBLIC CHARTER SCHOOLS; ESTABLISHING A PUBLIC CHARTER SCHOOL FACILITY REVOLVING LOAN ACCOUNT; ESTABLISHING THE PUBLIC CHARTER SCHOOL ENDOWMENT ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-201, 20-1-101, 20-4-101, 20-5-323, 61-3-321, AND 61-10-214, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Short title.** [Sections 1 through 18] may be cited as the "Public Charter Schools Act".

**NEW SECTION. Section 2. Public charter schools -- legislative findings and intent -- exemption.**

(1) The legislature finds that:

- (a) parents desire education options for their children;
- (b) expanding educational opportunities for K-12 education within the state is a valid public purpose;
- and
- (c) creating options that assist parents and encourage students to develop their full educational potential are vital to the economic competitiveness of the state.

(2) It is the legislature's intent to create other public educational institutions through charter schools.

1 The purposes are to:

2 (a) enable parents to make decisions on how best to educate their children;

3 (b) provide other high-quality public educational opportunities for all students, especially those at risk  
4 of academic failure; and

5 (c) encourage the use of different high-quality models of teaching, governing, scheduling, and other  
6 aspects of instruction that meet a variety of student needs.

7 (3) The legislature intends to allow public charter schools freedom and flexibility through exemption from  
8 Title 20, except as explicitly set forth in [sections 1 through 18], in exchange for increased accountability.

9  
10 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 18], the following definitions  
11 apply:

12 (1) "Applicant" means a person or group that submits a proposal for a public charter school to an  
13 authorizer.

14 (2) "Authorizer" means an entity authorized under [sections 1 through 18] to review proposals,  
15 determine whether to approve proposals for entering into a charter contract, enter into charter contracts with  
16 applicants, oversee public charter schools, and determine whether to renew or revoke charter contracts.

17 (3) "Charter contract" means a fixed-term, renewable contract between a public charter school and an  
18 authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the  
19 contract.

20 (4) "Commission" means the state public charter school commission provided for in [section 4].

#1 21 (5) "Education service provider" means a ~~for-profit education management organization,~~ nonprofit  
#2 22 charter management organization, ~~school design provider, or other partner entity~~ with which a public charter  
#3 23 school intends to contract for ~~educational design, implementation, or~~ comprehensive management.

24 (6) "Governing board" means the independent board of a public charter school that is party to the  
25 charter contract with the authorizer and whose members have been elected or selected pursuant to the  
26 applicant's proposal for the public charter school. A governing board is subject to and shall comply with state  
27 open meeting and public records laws pursuant to Title 2, chapters 3 and 6.

28 (7) "Local school board" means a school board exercising management and control of a local school  
29 district pursuant to the laws of the state of Montana.

30 (8) "Noncharter public school" means a public school that is under the direct management, governance,

1 and control of a local school board or the state.

2 (9) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

3 (10) "Public charter school" means a high-quality public school that:

4 (a) has autonomy over decisions including but not limited to matters concerning finance, personnel,  
5 scheduling, curriculum, and instruction;

6 (b) is governed by a governing board;

7 (c) is established and operated under the terms of a charter contract between the school's governing  
8 board and its authorizer;

9 (d) is a school in which parents choose to enroll their children;

10 (e) is a school that admits students on the basis of a lottery if more students apply for admission than  
11 can be accommodated;

12 (f) provides a program of education that may include any or all grades from kindergarten through grade  
13 12 and vocational education programs;

14 (g) operates in pursuit of a specific set of educational objectives as defined in its charter contract;

15 (h) operates under the oversight of its authorizer in accordance with its charter contract; and

16 (i) establishes graduation requirements and has authority to award degrees and issue diplomas.

17 (11) "Resident school district" means the public school district in which a student resides.

18 (12) "Startup public charter school" means a public charter school that did not exist as either a public  
19 charter school or a noncharter public school prior to becoming a public charter school.

20 (13) "Student" means a child who is eligible for attendance in a public school in the state.

21 (14) "Virtual public charter school" means a public charter school that offers educational services  
22 predominantly through an online program.

23  
24 **NEW SECTION. Section 4. Public charter school commission -- creation -- appointments.** (1)

25 There is an independent state public charter school commission with statewide chartering jurisdiction and  
26 authority.

27 (2) The commission is responsible for approving authorizers for public charter schools throughout the  
28 state, including schools designed to expand opportunities for at-risk students, consistent with the purposes of  
29 [sections 1 through 18].

30 (3) The commission consists of nine members who are appointed as follows:

1 (a) three members appointed by the governor;

2 (b) three members appointed by the president of the senate; and

3 (c) three members appointed by the speaker of the house.

4 (4) The commission members are subject to the following qualifications:

5 (a) no more than five of the members may be affiliated with the same political party;

6 (b) no more than two members may be public employees;

7 (c) one of the public employee members may be from the board of public education; and

8 (d) in making the appointments, the governor, president of the senate, and speaker of the house shall  
9 ensure statewide geographic diversity among commission members.

10 (5) Members appointed to the commission must collectively possess substantial experience and  
11 expertise in public and nonprofit governance, management and finance, public school leadership, assessment,  
12 curriculum, instruction, and public education law. All members of the commission must have a demonstrated  
13 understanding of and commitment to charter schools as a strategy for strengthening public education.

14 (6) (a) Each appointing authority shall appoint one member to a 4-year term, one member to a 3-year  
15 term, and one member to a 2-year term.

16 (b) All terms after the initial term must be for 3 years. Appointment to the initial terms must be made no  
17 later than 60 days following [the effective date of this act]. If any of the appointing authorities fails to make the  
18 appointments, the remaining appointing authorities may make the remaining appointments.

19 (c) A commission member may not serve more than two consecutive terms.

20 (7) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501  
21 through 2-18-503.

22 (8) A member of the commission may be removed for any cause that renders the member unable or  
23 unfit to discharge the duties of the office, including but not limited to failure to approve an authorizer without just  
24 cause and interference with the functions of the commission as set forth in [sections 1 through 18]. Whenever  
25 a vacancy on the commission exists, the original appointing authority shall appoint a member for the remaining  
26 portion of the term consistent with the requirements of subsections (3) and (4).

27 (9) The commission shall operate with dedicated resources and hire staff qualified to execute the  
28 day-to-day responsibilities of public charter school authorizing in accordance with [sections 1 through 18].

29 (10) The commission is authorized to receive and expend gifts, grants, and donations of any kind from  
30 any public or private entity to carry out the purposes of [sections 1 through 18], subject to the terms and

1 conditions under which they are given.

2 (11) (a) The commission is allocated to the department of administration for administrative purposes only  
3 as prescribed by 2-15-121(1)(a).

4 (b) The commission shall hire staff for the commission, except for any support staff provided by the  
5 department of administration for centralized services such as payroll, human resources, accounting, information  
6 technology, or other services determined by the commission and the department to be more efficiently provided  
7 by the department.

8 (c) The commission budget requests must be prepared and presented to the legislature and the  
9 governor independently of the department of administration.

10

11 **NEW SECTION. Section 5. Authorizers.** (1) The state public charter school commission created under  
12 [section 4] may authorize public charter schools in the state, provided that the commission performs the functions  
13 of public charter school authorizers under [sections 1 through 18]. THE TOTAL NUMBER OF PUBLIC  
#4 14 CHARTER SCHOOLS FOR WHICH THE COMMISSION MAY ACT AS AUTHORIZER IS FIVE FOR FISCAL  
15 YEAR 2014, AND THIS NUMBER MUST INCREASE BY FIVE FOR EACH SUBSEQUENT FISCAL YEAR.

#5 16 (2) (a) A local school board may ~~register~~ **APPLY** with the commission for chartering authority within the  
17 boundaries of the school district overseen by the local school board.

18 (b) If the commission determines that the local school board fulfills the requirements of ~~[section 6]~~ **AN**  
#6 19 **AUTHORIZER**, the commission shall, within 60 days of receipt of a local school board's application, approve  
20 the local school board as an authorizer.

21 (c) Upon approval, the commission shall register the local school board and shall provide the local  
22 school board with a letter confirming its approval as an authorizer.

23 (3) Governing bodies of accredited public or private postsecondary institutions, including community  
24 colleges, technical colleges, tribal colleges, and 4-year colleges and universities, may apply to the commission  
25 for statewide, regional, or local chartering authority pursuant to this section.

26 (4) Nonpublic sectarian or religious organizations and any other charitable organizations that, in their  
27 federal Internal Revenue Service Form 1023, Part IV under section 501(c)(3) of the Internal Revenue Code, 26  
28 U.S.C. 501(c)(3), describe activities indicating a religious purpose are not eligible to become authorizers.

29 (5) (a) The commission shall establish the annual application and approval process, including cycles  
30 and deadlines during the fiscal year, for all entities eligible to apply for chartering authority as set forth in this

1 section.

2 (b) By March 1 of each year, the commission shall make available information and guidelines for all  
3 eligible entities concerning the opportunity to apply for chartering authority under [sections 1 through 18].

4 (c) Each interested eligible entity shall submit an application that clearly explains or presents the  
5 following elements in a format to be established by the commission:

6 (i) written notification of intent to serve as a charter authorizer in accordance with [sections 1 through  
7 18];

8 (ii) an explanation of the entity's strategic vision for chartering;

9 (iii) a plan supporting the entity's strategic vision and an explanation of the entity's budget and personnel  
10 capacity and commitment to execute the duties of charter authorizing in accordance with [sections 1 through 18];

11 (iv) a draft or preliminary outline of a request for proposal that will solicit public charter school applicants  
12 in accordance with [section 9];

13 (v) a description or outline of the performance framework the entity will use to guide the establishment  
14 of a charter contract and for ongoing oversight and evaluation of public charter schools consistent with the  
15 requirements of [sections 1 through 18];

#7 16 (vi) a draft of the entity's renewal, revocation, ~~and~~ nonrenewal, AND SCHOOL CLOSURE processes  
17 consistent with [sections 12 and 13];

18 (vii) a statement of assurance that the entity commits to serving as a charter authorizer in fulfillment of  
19 the expectations, spirit, and intent of [sections 1 through 18] and will fully participate in any authorizer training  
20 provided or required by the commission; and

21 (viii) a statement of assurance that the entity will be accountable and transparent in all matters  
22 concerning charter-authorizing practices, decisions, and expenditures.

23 (6) (a) Within 60 days of receipt of the application, the commission shall determine whether to approve  
24 an application based on a review of the documentation provided in subsection (5) and the quality of the  
25 application. The commission shall provide a letter to the entity either confirming or denying acceptance as an  
26 authorizer.

27 (b) Within 30 days of approval of an application for charter authorizing, the commission and the  
28 approved authorizer shall execute a renewable authorizing contract. The initial authorizing contract term is 6  
29 years.

30 (7) An applicant entity may not engage in charter-authorizing functions without a fully executed

1 authorizing contract.

2 (8) Once authorized, the authorizer continues from year to year during the term of the contract as long  
3 as the authorizer fulfills all charter-authorizing duties and expectations set forth in [sections 1 through 18] and  
4 remains an authorizer in good standing with the commission.

5

6 **NEW SECTION. Section 6. Authorizer responsibilities.** (1) In accordance with [sections 1 through  
7 18], an authorizer is responsible for executing the following essential powers and duties:

8 (a) soliciting and evaluating charter proposals;

9 (b) approving charter proposals that meet identified educational needs and promote a diversity of  
10 educational choices, including but not limited to:

11 (i) creating more high-quality schools with high standards for pupil performance;

12 (ii) closing achievement gaps between high-performing and low-performing groups of public school  
13 students;

14 (iii) increasing high-quality educational opportunities within the public education system;

15 (iv) providing alternative learning environments for students who are not thriving in traditional school  
16 settings;

17 ~~§~~ **(V) ADDRESSING THE DROPOUT RATE:**

18 ~~(v)~~ **(VI)** creating new professional opportunities for teachers and other school personnel;

19 ~~(vi)~~ **(VII)** encouraging the use of different, high-quality models of teaching and other aspects of schooling;

20 and

21 ~~(vii)~~ **(VIII)** providing students, parents, community members, and local entities with expanded  
22 opportunities for involvement in the public education system;

23 (c) declining to approve inadequate charter proposals;

24 (d) negotiating and executing sound charter contracts with each approved public charter school;

25 (e) monitoring, in accordance with charter contract terms, the performance and legal compliance of  
26 public charter schools; and

27 (f) determining whether each charter contract merits renewal, nonrenewal, or revocation.

28 (2) An authorizing entity may delegate its duties to its officers, employees, and contractors.

29 (3) Regulation of public charter schools by authorizers is limited to the powers and duties described in  
30 [sections 1 through 18], consistent with the intent of [sections 1 through 18].

1 (4) An authorizer shall develop, carry out, and maintain chartering policies and practices consistent with  
2 nationally recognized principles and standards for charter authorizing in all major areas of authorizing  
3 responsibility, including:

- 4 (a) organizational capacity and infrastructure;
- 5 (b) soliciting and evaluating charter proposals;
- 6 (c) performance contracting;
- 7 (d) ongoing public charter school oversight and evaluation; and
- 8 (e) charter renewal decisionmaking.

9 (5) Evidence of material or persistent failure to carry out the duties enumerated in this section  
10 constitutes grounds for rescission of charter-authorizing powers.

11 (6) Each authorizer shall submit to the commission and the education and local government interim  
12 committee an annual report summarizing:

- 13 (a) the authorizer's strategic vision for chartering and progress toward achieving that vision;
- 14 (b) the academic and financial performance of all operating public charter schools overseen by the  
15 authorizer, according to the performance expectations for public charter schools set forth in [sections 1 through  
16 18];
- 17 (c) the status of the authorizer's public charter school portfolio, identifying all public charter schools  
18 approved but not yet open, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never  
19 opened;
- 20 (d) the authorizing functions provided by the authorizer to the public charter schools under its direction,  
21 including the authorizer's operating costs and expenses detailed in annual audited financial statements that  
22 conform with generally accepted accounting principles; and

23 (e) the services purchased from the authorizer by a public charter school under the authorizer's  
24 direction, including an itemized accounting of the actual costs of these services, as required in [section 7].

25 (7) An employee, trustee, agent, or representative of an authorizer may not simultaneously serve as  
26 an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that  
27 entity.

28 (8) A governmental unit or other entity, other than those expressly granted chartering authority as set  
29 forth in [sections 1 through 18], may not assume any charter-authorizing function or duty in any form unless  
30 expressly allowed by law.

**NEW SECTION. Section 7. Duties of commission for oversight of authorizer.**

(1) The commission shall establish a statewide formula for authorizer funding, to be applied uniformly to every authorizer in the state. Authorizer funding is financed through an oversight fee.

(2) The oversight fee must be calculated as a uniform percentage of the average enrollment operational funding allocated to each public charter school and is to be paid from the public charter school's budget share of the per-pupil funding, not to exceed 3% of each public charter school's state per-pupil funding in a single school year.

(3) The commission may establish a sliding scale for authorizer funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold after a certain number of years of authorizing, after a certain number of schools have been authorized, or for other reasons determined at the discretion of the commission.

(4) An authorizer's oversight fee may not include any costs incurred in delivering services that a public charter school may purchase at its discretion from the authorizer. The authorizer shall use the funding provided under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with [sections 1 through 18].

(5) The commission is responsible for overseeing the performance and effectiveness of all authorizers established under [sections 1 through 18].

(6) The commission shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of [sections 1 through 18].

(7) By October 15 of each year, the commission shall communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(8) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the commission.

(9) In reviewing or evaluating the performance of authorizers, the commission shall apply nationally recognized principles and standards for charter authorizing.

(10) If at any time the commission finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the commission, or the requirements of authorizers under [sections 1

1 through 18], the commission shall notify the authorizer in writing of the identified problems and shall provide the  
2 authorizer reasonable opportunity to respond and remedy the problems.

3 (11) If an authorizer fails to respond and remedy the problems identified by the commission, the  
4 commission shall notify the authorizer, within a reasonable amount of time under the circumstances, that it  
5 intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and  
6 satisfactory remedy for the violation or deficiencies.

7 (12) In the event of revocation of an authorizer's chartering authority, the commission shall manage the  
8 timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with  
9 the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer  
10 shall assume the existing charter contract for the remainder of the charter term.

11 (13) On or before December 1 of each year, beginning in the first year that public charter schools have  
12 been in operation for a full school year, the commission shall issue to the governor, the education and local  
13 government interim committee, and the public an annual report on the state's public charter schools that includes  
14 data from the annual reports submitted by every authorizer, as well as any additional relevant data compiled by  
15 the commission, for the school year ending in the preceding calendar year. The annual report must include:

16 (a) a comparison of the performance of public charter school students with the performance of  
17 academically, ethnically, and economically comparable groups of students in noncharter public schools; and

18 (b) the commission's assessment of the successes, challenges, and areas for improvement in meeting  
19 the purposes of [sections 1 through 18], including the commission's assessment of the sufficiency of funding for  
20 public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in  
21 state law or policy necessary to strengthen the state's public charter schools.

22  
23 **NEW SECTION. Section 8. Purchase of services by charter school.** (1) With the exception of  
24 oversight services as required by [section 7], a public charter school may not be required to purchase services  
25 from the public charter school's authorizer as an express or implied condition of charter approval or of executing  
26 a charter contract.

27 (2) A public charter school may choose to purchase services from its authorizer. In that event, the public  
28 charter school and authorizer shall execute an annual service contract, separate from the charter contract,  
29 stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service  
30 fees to be charged to the public charter school. An authorizer may not charge more than market rates for

1 services provided to a public charter school.

2  
3 **NEW SECTION. Section 9. Charter school proposal process -- request for proposal -- charter**  
4 **term.** (1) To solicit, encourage, and guide the development of public charter schools, every authorizer operating  
5 under [sections 1 through 18] shall issue and broadly publicize a request for proposal by June 1 of each year.  
6 The content and dissemination of the request for proposal must be consistent with the purposes and  
7 requirements of [sections 1 through 18].

8 (2) Each authorizer's request for proposal must present the authorizer's strategic vision for chartering,  
9 including a clear statement of any preferences the authorizer wishes to grant to proposals that help at-risk  
10 students.

11 (3) A request for proposal must include or otherwise direct applicants to the performance framework  
12 that the authorizer has developed for public charter school oversight and evaluation in accordance with [section  
13 6].

14 (4) A request for proposal must include the criteria that will guide the authorizer's decision to approve  
15 or deny a charter proposal.

16 (5) A request for proposal must include clear and detailed questions as well as guidelines concerning  
17 the format and content essential for applicants to demonstrate the capacities necessary to establish and operate  
18 a successful public charter school.

19 (6) A request for proposal must require applicants to describe thoroughly all of the following essential  
20 elements of the proposed school plan:

21 (a) an executive summary;

22 (b) the mission and vision of the proposed public charter school, including identification of the targeted  
23 student population and the community the school hopes to serve;

24 (c) the location or geographic area proposed for the public charter school;

25 (d) the grades to be served each year for the full term of the charter contract;

26 (e) minimum, planned, and maximum enrollment per year for the term of the charter contract;

27 (f) evidence of need and community support for the proposed public charter school;

28 (g) background information on the proposed founding governing board members and, if identified, the  
29 proposed school leadership and management team;

30 (h) the proposed public charter school's proposed calendar and sample daily schedule;

1 (i) a description of the academic program;

2 (j) a description of the proposed public charter school's instructional design, including the type of  
3 learning environment, class size and structure, curriculum overview, and teaching methods;

4 (k) the proposed public charter school's plans for identifying and successfully serving students with  
5 disabilities, students who are English language learners, students who are academically challenged, and gifted  
6 students, including but not limited to compliance with applicable laws and regulations;

7 (l) a description of cocurricular or extracurricular programs, if any, and how the programs will be funded  
8 and delivered;

9 (m) plans and timelines for student recruitment and enrollment, including lottery procedures;

10 (n) the proposed public charter school's student discipline policies, including those for special education  
11 students;

12 (o) an organizational chart that clearly presents the proposed public charter school's organizational  
13 structure, including lines of authority and reporting between the governing board, staff, related bodies such as  
14 advisory bodies or parent and teacher councils, and external organizations that will play a role in managing the  
15 school;

16 (p) a clear description of the roles and responsibilities for the governing board, the proposed public  
17 charter school's leadership and management team, and other entities shown in the organizational chart;

18 (q) a staffing chart for the proposed public charter school's first year and a staffing plan for the term of  
19 the charter;

20 (r) plans for recruiting and developing school leadership and staff;

21 (s) the proposed public charter school's leadership and teacher employment policies, including  
22 performance evaluation plans;

23 (t) proposed governing bylaws;

24 (u) explanations of any partnerships or contractual relationships central to the proposed public charter  
25 school's operations or mission;

26 (v) the proposed public charter school's plans for providing transportation, food service, and all other  
27 significant operational or ancillary services, if any;

28 (w) opportunities and expectations for parent involvement;

29 (x) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;

30 (y) a description of the proposed public charter school's financial plan and policies, including financial

1 controls and audit requirements;

2 (z) a description of the insurance coverage the proposed public charter school will obtain;

3 (aa) startup and 5-year budgets with clearly stated assumptions;

4 (bb) startup and first-year cash flow projections with clearly stated assumptions;

5 (cc) evidence of anticipated fundraising contributions if claimed in the proposal; and

6 (dd) a sound facilities plan, including backup or contingency plans if appropriate.

7 (7) In the case of a proposal to establish a public charter school by converting an existing noncharter  
8 public school to public charter school status, a request for proposal must also require the applicants to  
9 demonstrate support for the proposed public charter school conversion by a petition signed by a majority of  
10 teachers or a majority of the local school board and a petition signed by a majority of parents of students in the  
11 existing noncharter public school.

12 (8) In the case of a proposal to establish a virtual public charter school, a request for proposal must  
13 additionally require the applicants to describe the proposed school's system of course credits and how the school  
14 will:

15 (a) monitor and verify full-time student enrollment, student participation in a full course load, credit  
16 accrual, and course completion;

17 (b) monitor and verify student progress and performance in each course through regular, proctored  
18 assessments and submissions of coursework;

19 (c) conduct parent-teacher conferences; and

20 (d) administer state-required assessments to all students in a proctored setting.

21 (9) In the case of a proposed public charter school that intends to contract with an education service  
#9 22 provider for ~~substantial educational services~~, management services, ~~or both~~, a request for proposal must  
23 additionally require the applicants to:

24 (a) provide evidence of the education service provider's success in serving student populations similar  
25 to the targeted population, including demonstrated academic achievement as well as successful management  
26 of nonacademic school functions if applicable;

27 (b) provide documentation setting forth:

28 (i) the proposed duration of the service contract;

29 (ii) the roles and responsibilities of the governing board, the school staff, and the education service  
30 provider;

- 1 (iii) the scope of services and resources to be provided by the education service provider;  
2 (iv) performance evaluation measures and timelines;  
3 (v) a compensation structure, including clear identification of all fees to be paid to the education service  
4 provider;  
5 (vi) methods of contract oversight and enforcement;  
6 (vii) investment disclosure; and  
7 (viii) conditions for renewal and termination of the contract; and  
8 (c) disclose and explain any existing or potential conflicts of interest between the governing board and  
9 the proposed education service provider or any affiliated business entities.

10 (10) In the case of a public charter school proposal from an applicant that currently operates one or more  
11 schools in any state or nation, a request for proposal must additionally require the applicant to provide evidence  
12 of past performance and current capacity for growth.

13 <sup>10</sup> ~~(11) IF A PUBLIC CHARTER SCHOOL PROPOSAL DOES NOT CONTAIN THE ELEMENTS~~  
14 ~~REQUIRED IN THIS SECTION, THE AUTHORIZER MAY CONSIDER THE PROPOSAL NONRESPONSIVE~~  
15 ~~AND REJECT THE PROSOAL WITHOUT THE PROCESS DESCRIBED IN SUBSECTION (12).~~

16 ~~(11)(12)~~ In reviewing and evaluating charter proposals, authorizers shall employ procedures, practices,  
17 and criteria consistent with nationally recognized principles and standards for charter authorizing. The proposal  
18 review process must include thorough evaluation of each written charter proposal, an in-person interview with  
19 the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on  
20 each proposal.

21 ~~(12)(13)~~ In deciding whether to approve charter proposals, authorizers shall:

- 22 (a) grant charters only to applicants that have demonstrated competence in each element of the  
23 authorizer's published approval criteria and are likely to open and operate a successful public charter school;  
24 (b) base decisions on documented evidence collected through the proposal review process; and  
25 (c) follow charter-granting policies and practices that are transparent, are based on merit, and avoid  
26 conflicts of interest or any appearance of conflict.

27 ~~(13)(14) (a) Within 60 days after the filing of a charter proposal, the authorizer shall approve or deny the~~  
28 ~~charter proposal. THE AUTHORIZER SHALL APPROVE OR DENY THE CHARTER PROPOSAL WITHIN 60~~  
29 ~~DAYS AFTER THE FILING OF A CHARTER PROPOSAL, EXCEPT THE COMMISSION HAS UP TO 120 DAYS~~  
30 ~~IF MORE THAN THREE PROPOSALS HAVE BEEN SUBMITTED TO THE COMMISSION WITHIN 30 DAYS.~~

1 THE COMMISSION SHALL NOTIFY THE APPLICANT OF THE EXPECTED TIMELINE FOR APPROVAL OR  
2 DENIAL.

3 (B) The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting  
4 of the authorizer's governing body.

5 (b)(C) An approval decision may include, if appropriate, reasonable conditions that the applicant must  
6 meet before a charter contract may be executed pursuant to [section 10].

7 (e)(D) For any charter denial, the authorizer shall clearly state for the public record the reasons for  
8 denial. A denied applicant may subsequently reapply to that authorizer or apply to any other authorizer in the  
9 state.

10 (d)(E) Within 10 days of taking action to approve or deny a charter proposal, the authorizer shall report  
11 its decision to the commission. The authorizer shall provide a copy of the report to the applicant at the same time  
12 that the report is submitted to the commission. The report must include a copy of the authorizer's governing  
13 body's resolution setting forth the action taken and reasons for the decision and providing assurances of  
14 compliance with all of the procedural requirements and proposal elements set forth in this section.

15 (14)(15) An applicant may submit a proposal for a particular public charter school to only one authorizer  
16 at a time.

17  
18 **NEW SECTION. Section 10. Charter contract -- terms.** (1) An initial charter must be granted for a  
19 term of 5 operating years, commencing on the public charter school's first day of operation. An approved public  
20 charter school may delay its opening for 1 school year to plan and prepare for the school's opening. If the school  
21 requires an opening delay of more than 1 school year, the school shall request an extension from its authorizer.  
22 The authorizer may grant or deny the extension depending on the particular school's circumstances.

23 (2) Within 45 days of approval of a charter proposal, the authorizer and the governing board of the  
24 approved public charter school shall execute a charter contract that clearly sets forth the academic and  
25 operational performance expectations and measures by which the public charter school will be judged and the  
26 administrative relationship between the authorizer and the public charter school, including each party's rights  
27 and duties.

28 (3) The performance expectations and measures set forth in the charter contract must include at a  
29 minimum the applicable federal and state accountability requirements. The performance provisions may be  
30 refined or amended by mutual agreement after the public charter school is operating and has collected baseline

1 achievement data for its enrolled students.

2 (4) The charter contract for a virtual public charter school must include a description and agreement  
3 regarding the methods by which the school will:

4 (a) monitor and verify full-time student enrollment, student participation in a full course load, credit  
5 accrual, and course completion;

6 (b) monitor and verify student progress and performance in each course through regular, proctored  
7 assessments and submissions of coursework;

8 (c) conduct parent-teacher conferences; and

9 (d) administer state-required assessments to all students in a proctored setting.

10 (5) The charter contract must be signed by the president of the authorizer's governing body and the  
11 president of the public charter school's governing board. Within 10 days of executing a charter contract, the  
12 authorizer shall submit to the commission written notification of the charter contract execution, including a copy  
13 of the executed charter contract and any attachments.

14 (6) A public charter school may not commence operations without a charter contract executed in  
15 accordance with this section and approved in an open meeting of the authorizer's governing body.

16 (7) Authorizers may establish reasonable preopening requirements or conditions to monitor the startup  
17 progress of a newly approved public charter school to ensure that the school is prepared to open smoothly on  
18 the date agreed and to ensure that each school meets all building, health, safety, insurance, and other legal  
19 requirements for school opening.

20

21 **NEW SECTION. Section 11. Enrollment.** (1) (a) A public charter school must be open to any student  
22 residing in the state.

23 (b) A school district may not require a student enrolled in the school district to attend a public charter  
24 school.

25 (c) A public charter school may limit admission to students within a given age group or grade level.

26 (d) A public charter school may be organized for a special emphasis, theme, or concept as stated in  
27 the school's proposal.

28 (e) A public charter school shall enroll all students who wish to attend the school unless the number of  
29 students exceeds the capacity of a program, class, grade level, or building.

30 (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school

1 shall select students through a lottery.

2 (2) A noncharter public school converting to a public charter school shall adopt and maintain a policy  
3 giving enrollment preference to students who reside within the former attendance area of that public school.

4 (3) (a) A public charter school shall give enrollment preference to students who were enrolled in the  
5 public charter school the previous school year and to siblings of students already enrolled in the public charter  
6 school. An enrollment preference for returning students excludes those students from entering into a lottery.

7 (b) A public charter school may give enrollment preference to children of a public charter school's  
8 founders, governing board, and full-time employees, limited to no more than 10% of the school's total student  
9 population.

10 (4) This section does not preclude the formation of a public charter school for the purpose of serving  
11 students with disabilities, students of the same gender, students who pose a sufficiently severe disciplinary  
12 problem to warrant a specific educational program, or students who are at risk of academic failure. If capacity  
13 is insufficient to enroll all students who wish to attend such a school, the public charter school shall select  
14 students through a lottery.

15 (5) If a student who was previously enrolled in a public charter school enrolls in any other public school  
16 in this state, the student's new school shall accept credits earned by the student in courses or instructional  
17 programs at the public charter school.

18 (6) A school district shall provide or publicize to parents and the general public information about public  
19 charter schools as an enrollment option within the district to the same extent and through the same means that  
20 the district provides and publicizes information about noncharter public schools in the district.

21 (7) An authorizer may not restrict the number of students a public charter school may enroll. The  
22 capacity of the public charter school must be determined annually by its governing board in conjunction with the  
23 authorizer and in consideration of the public charter school's ability to facilitate the academic success of its  
24 students, to achieve the objectives specified in the charter contract, and to ensure that its student enrollment  
25 does not exceed the capacity of its facility or site.

26  
27 **NEW SECTION. Section 12. Charter school performance and renewal.** (1) The performance  
28 provisions within the charter contract must be based on a performance framework that clearly sets forth the  
29 academic and operational performance indicators, measures, and metrics that will guide the authorizer's  
30 evaluations of each public charter school. The performance framework must include indicators, measures, and

- 1 metrics for, at a minimum:
- 2 (a) student academic proficiency;
- 3 (b) student academic growth;
- 4 (c) achievement gaps in both proficiency and growth between major student subgroups;
- 5 #12 (d) attendance, DROPOUT, PROMOTION, AND GRADUATION RATES;
- 6 (e) recurrent enrollment from year to year;
- 7 (f) postsecondary readiness;
- 8 #13 (G) ATTAINMENT OF ACCREDITATION FROM A REGIONALLY OR NATIONALLY RECOGNIZED
- 9 ACCREDITATION AGENCY;
- 10 ~~(g)~~(H) financial performance and sustainability; and
- 11 #14 ~~(h)~~(I) governing board ~~performance~~ ELECTIONS, PERFORMANCE, and stewardship, including
- 12 compliance with all applicable laws, regulations, and terms of the charter contract.
- 13 (2) Each public charter school, in conjunction with its authorizer, shall set annual performance targets
- 14 designed to help each school meet applicable federal, state, and authorizer expectations.
- 15 (3) (a) The contract performance framework must allow the inclusion, with the authorizer's approval,
- 16 of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external
- 17 evaluations of its performance that are consistent with the purposes of [sections 1 through 18].
- 18 (b) The performance framework must require the collection and reporting of all student performance
- 19 data as required of other public schools.
- 20 (c) The authorizer shall collect state assessment data from each public charter school it oversees and
- 21 shall analyze and report all data from state assessments in accordance with the performance framework.
- 22 (d) Multiple schools operating under a single charter contract or overseen by a single governing board
- 23 shall report their performance as separate, individual schools, and each school must be held independently
- 24 accountable for its performance.
- 25 (4) (a) An authorizer shall monitor the performance and legal compliance of the public charter schools
- 26 it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter
- 27 contract. Every authorizer has the authority to conduct or require oversight activities that do not unduly inhibit
- 28 the autonomy granted to public charter schools but that enable the authorizer to fulfill its responsibilities under
- 29 [sections 1 through 18], including conducting appropriate inquiries and investigations consistent with the intent
- 30 of [sections 1 through 18], and to adhere to the terms of the charter contract.

(b) Each authorizer shall annually publish and provide, as part of its annual report to the commission and the education and local government interim committee, a performance report for each public charter school it oversees, within the performance framework set forth in the charter contract and [section 10]. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(c) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem.

(d) An authorizer may take appropriate corrective action or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. The action or sanctions may include, if warranted, requiring a public charter school to develop and execute a corrective action plan within a specified timeframe.

(5) (a) A charter may be renewed for successive 5-year terms, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of each public charter school. An authorizer may grant renewal with specific conditions for necessary improvement to a public charter school.

(b) No later than June 30 of each year, the authorizer shall issue a public charter school performance report and charter renewal application guide to any public charter school whose charter will expire the following year. The performance report must summarize the public charter school's performance record to date, based on the data required by [sections 1 through 18] and the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the public charter school that may jeopardize renewal if not promptly rectified. The public charter school shall respond to the performance report and submit any corrections or clarifications within 90 days.

(6) The renewal application guide must, at a minimum, provide an opportunity for the public charter school to:

(a) present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(b) describe improvements undertaken or planned for the public charter school; and

(c) detail the public charter school's plans for the next charter term.

(7) The renewal application guide must include or refer explicitly to the criteria that will guide the

1 authorizer's renewal decisions, based on the performance framework set forth in the charter contract and  
2 consistent with [sections 1 through 18].

3 (8) (a) No later than February 1 of each year, the governing board of a public charter school seeking  
4 renewal shall submit a renewal application to the charter authorizer pursuant to the renewal application guide  
5 issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than 30 days  
6 after the filing of the renewal application.

7 (b) Every authorizer shall, when considering charter renewal:

8 (i) base its decision on evidence of the school's performance over the term of the charter contract in  
9 accordance with the performance framework set forth in the charter contract;

10 (ii) ensure that the data used in making renewal decisions is available to the school and the public; and

11 (iii) provide a public report summarizing the basis for each decision.  
12

13 **NEW SECTION. Section 13. Charter contract revocation and school closure or charter contract**

14 **nonrenewal.** (1) A charter contract may be subject to nonrenewal or revocation if the authorizer determines that  
15 the public charter school:

16 (a) committed a material and substantial violation of any of the terms, conditions, standards, or  
17 procedures required under [sections 1 through 18] or the charter contract and from which the public charter  
18 school was not exempted;

19 (b) failed to meet or make sufficient progress toward the performance expectations set forth in the  
20 charter contract;

21 (c) failed to meet public safety standards; or

22 (d) failed to meet generally accepted standards of fiscal management.

23 (2) An authorizer shall develop revocation and nonrenewal processes that:

24 (a) provide the charter holders with timely notification of the prospect of revocation or nonrenewal and  
25 of the reasons for the possible closure;

26 (b) allow the charter holders a reasonable amount of time in which to prepare a response;

27 (c) provide the charter holders an opportunity to submit documents and testimony at a hearing to  
28 challenge the rationale for the closure recommendation and in support of the continuation of the school;

29 (d) allow the charter holders to be represented by counsel and call witnesses on their behalf;

30 (e) permit the recording of the proceedings; and

1 (f) provide for a final determination conveyed in writing to the charter holders.

2 (3) If an authorizer revokes or denies renewal of a charter, the authorizer shall clearly state, by  
3 resolution of its governing body, the reasons for the revocation or nonrenewal.

4 (4) Within 10 days of taking action to renew, not renew, or revoke a charter, the authorizer shall report  
5 to the commission the action taken and at the same time shall provide a copy of the report to the public charter  
6 school. The report must include a copy of the authorizer governing body's resolution setting forth the action taken  
7 and reasons for the decision and providing assurances of compliance with all of the requirements set forth in  
8 [sections 1 through 18]. The authorizer's decision is appealable to the commission in writing within 30 days of  
9 the commission's receipt of the authorizer's report.

10 (5) (a) Prior to any public charter school closure, an authorizer shall develop a public charter school  
11 closure protocol to ensure timely notification to parents, orderly transition of students and student records to new  
12 schools, and proper disposition of school funds, property, and assets in accordance with the requirements of  
13 [sections 1 through 18]. The protocol must specify responsible parties, transition and closure timelines, and a  
14 delineation of the respective duties of the public charter school and the authorizer.

15 (b) The authorizer shall oversee the closure and work with the closing public charter school to ensure  
16 a smooth and orderly closure and transition for students and parents.

#15 17 (c) In the event of a public charter school closure for any reason, the NONRESTRICTED  
18 DISTRIBUTABLE assets of the public charter school must be distributed first to satisfy outstanding payroll  
19 obligations for employees of the public charter school, then to creditors of the public charter school, THEN TO  
#16 20 PUBLIC SCHOOL DISTRICTS TO WHICH STUDENTS PREVIOUSLY ATTENDING THE CLOSED CHARTER  
21 SCHOOL ARE RETURNING ON A PRORATED PER-PUPIL BASIS, and then to the state general fund. If the  
22 assets of the public charter school are insufficient to pay all obligations, the prioritization of the distribution of  
23 assets may be determined by a court of law.

24 (d) If a closing public charter school was converted from an existing noncharter public school, the  
25 closing public charter school is not responsible for any financial obligation or debt of the previously existing  
26 noncharter public school unless the public charter school assumed the debt or obligation at the time of  
27 conversion.

28 (6) Transfer of a charter contract, and of oversight of that public charter school from one authorizer to  
29 another before the expiration of the charter term, may occur only if the authorizer violates the provisions of  
30 [section 6] or by special petition to the commission by a public charter school or its authorizer. The commission

1 shall consider a petition for transfer on a case-by-case basis and may grant transfer requests in response to  
2 special circumstances and to evidence that the transfer would serve the best interests of the public charter  
3 school's students.

4  
5 **NEW SECTION. Section 14. Public charter school operation and autonomy.** (1) (a) A public charter  
6 school must be a nonprofit education organization.

7 (b) A public charter school is subject to all federal laws and authorities as provided in [sections 1  
8 through 18] or arranged by charter contract with the public charter school's authorizer consistent with applicable  
9 laws, rules, and regulations.

10 (c) Except as provided in [sections 1 through 18], a public charter school is not subject to the provisions  
11 of Title 20 or any state or local rule, regulation, policy, or procedure relating to noncharter public schools within  
12 an applicable local school district.

13 (d) A single governing board may hold one or more charter contracts. A charter contract may consist  
14 of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each public  
15 charter school that is part of a charter contract is separate and distinct from any other public charter school.

16 (E) THE FOUNDING GOVERNING BOARD OF A PUBLIC CHARTER SCHOOL MAY NOT BE IN  
17 PLACE FOR LONGER THAN 3 YEARS OF OPERATION, AT WHICH TIME THE GOVERNING BOARD MUST  
18 BE ELECTED BY A PROCESS OUTLINED IN THE CHARTER SCHOOL BYLAWS. THE ELECTION PROCESS  
19 MUST INCLUDE THE FOLLOWING:

20 (I) PARENTS AND GUARDIANS OF STUDENTS ENROLLED IN THE SCHOOL SHALL NOMINATE  
21 CANDIDATES FOR THE GOVERNING BOARD;

22 (II) IF THE NUMBER OF NOMINEES IS EQUAL TO THE NUMBER OF VACANCIES, NO ELECTION  
23 IS REQUIRED;

24 (III) IF THE NUMBER OF NOMINEES IS GREATER THAN THE NUMBER OF VACANCIES, THE  
25 ELECTION MUST BE DECIDED BY THE QUALIFIED ELECTORS OF THE DISTRICT AS PART OF THE NEXT  
26 REGULAR SCHOOL ELECTION; AND

27 (IV) THE TERMS OF BOARD MEMBERS MUST BE STAGGERED TO ENSURE CONTINUITY ON THE  
28 GOVERNING BOARD.

29 (2) A startup public charter school may not be created WITH FEWER THAN 12 STUDENTS OR within  
30 the geographical boundaries of a third-class elementary district, as defined in 20-6-201, or a third-class high

1 school district, as defined in 20-6-301, unless:

2 (a) the public charter school is being converted from an existing public school;

3 (b) the school district elects to establish a public charter school;

4 (c) the school district elects to convert a grade or grades to a public charter school from an existing  
5 school;

6 (d) the public charter school is a tribal charter school; or

7 (e) the public charter school is a virtual public charter school.

#19 8 (3) A PUBLIC CHARTER SCHOOL SHALL FUNCTION AS A LOCAL EDUCATIONAL AGENCY. A  
9 PUBLIC CHARTER SCHOOL IS RESPONSIBLE FOR MEETING THE REQUIREMENTS OF A LOCAL  
10 EDUCATIONAL AGENCY UNDER APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, INCLUDING THOSE  
11 RELATING TO SPECIAL EDUCATION.

12 ~~(3)~~(4) A public charter school is primarily responsible for special education at the school, including  
13 identification and service provisions, and is responsible for meeting the needs of enrolled students with  
14 disabilities. If a student's individualized education program team determines that a student's needs are so  
15 profound that they cannot be met in the public charter school and that the public charter school cannot provide  
16 a free, appropriate public education to that student, the student's district of residence shall place the student in  
17 a more appropriate setting.

18 ~~(4)~~(5) A public charter school has all the powers necessary for carrying out the terms of its charter  
19 contract, including the following powers:

20 (a) to receive and disburse funds for school purposes;

21 (b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing wage  
22 laws;

23 (c) to contract with an education service provider for the management and operation of the public  
24 charter school only if the school's governing board retains oversight authority over the school;

25 (d) to incur debt in reasonable anticipation of the receipt of public or private funds;

26 (e) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

27 (f) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms of  
28 its charter contract;

29 (g) to acquire real property, for use as its facility or facilities, from public or private sources; and

30 (h) to sue and be sued in its own name.

1 ~~(5)(6)~~ (a) A public charter school may not engage in any sectarian practices in its educational program,  
2 admissions policies, employment policies or practices, or operations.

3 (b) The powers, obligations, and responsibilities set forth in the charter contract may not be delegated  
4 or assigned by either party, except as otherwise specifically provided in [sections 1 through 18].

5 ~~(6)(7)~~ (a) A public charter school is subject to the same civil rights, health, and safety requirements  
6 applicable to other public schools in the state, except as otherwise specifically provided in [sections 1 through  
7 18].

#20 8 (B) A PUBLIC CHARTER SCHOOL SHALL ESTABLISH AND PUBLISH A GRIEVANCE POLICY THAT  
9 INCLUDES CONTACT INFORMATION FOR THE SCHOOL'S AUTHORIZER AND THE COMMISSION.

10 ~~(b)(C)~~ A public charter school is subject to the student assessment, accountability, and data reporting  
11 requirements applicable to other public schools in the state, but [sections 1 through 18] do not preclude a public  
12 charter school from establishing additional student assessment measures that exceed state requirements.

13 ~~(c)(D)~~ The governing board shall establish graduation requirements and may award degrees and issue  
14 diplomas.

15 ~~(d)(E)~~ A governing board is subject to and shall comply with state open meeting and public records laws  
16 pursuant to Title 2, chapters 3 and 6.

17 (F) A PUBLIC CHARTER SCHOOL SHALL ESTABLISH PURCHASING PROCEDURES THAT  
#21 18 INCLUDE A COMPETITIVE BIDDING PROCESS FOR PURCHASES OR CONTRACTS EXCEEDING \$50,000.

19 (G) MEMBERS OF A PUBLIC CHARTER SCHOOL GOVERNING BOARD AND SCHOOL  
20 ADMINISTRATORS SHALL DISCLOSE PRIVATE FINANCIAL INTERESTS, IF ANY EXIST, PRIOR TO TAKING  
21 OFFICIAL ACTION.

22 ~~(7)(8)~~ (a) A public charter school shall comply with applicable federal laws, rules, and regulations  
#22 23 regarding the qualification of FEDERALLY DEFINED HIGHLY QUALIFIED teachers and other instructional staff.  
24 Public charter school teachers are exempt from state teacher certification requirements provided in 20-4-101.

25 (b) Employees in public charter schools have the same rights and privileges as other public school  
26 employees except as otherwise provided in [sections 1 through 18].

27 (c) Teachers and other school personnel, as well as governing board trustees, are subject to criminal  
28 history record checks and fingerprinting requirements.

29 (d) Public charter school employees may not be required to be members of any existing collective  
30 bargaining agreement between a school district and its employees. However, a public charter school may not

1 interfere with laws and other applicable rules protecting the rights of employees to organize and to be free from  
2 discrimination.

#23 3 (E) A PUBLIC CHARTER SCHOOL SHALL MAINTAIN A RECORD OF THE QUALIFICATIONS OF  
4 EACH TEACHER EMPLOYED BY THE SCHOOL.

#24 6 NEW SECTION. Section 15. Funding of public charter schools. ~~(1) It is the intent of the legislature~~  
7 ~~that public charter schools receive funding on a per-pupil basis that is equitable with the average per-pupil~~  
8 ~~spending of the resident school district.~~

9 ~~(2)(1)~~ (a) If a district that consists of only one school desires to convert to a public charter school,  
10 this section does not apply and the district funding formula under Title 20 applies. The district shall transfer funds  
11 to the governing board of the public charter school that maintains the operational and programmatic autonomy  
12 described in [sections 1 through 18].

13 (b) If the funding payments from the district to the public charter school are not made by the sixth day  
14 of the month following the month the payment was due, a penalty of \$10 per student must be assessed and will  
15 continue to accrue at the same rate for each week the payment is late.

16 ~~(3)(2)~~ A public charter school may not charge tuition pursuant to 20-5-323 and may charge only fees  
17 that may be imposed by noncharter public schools in the state.

18 ~~(4)(3)~~ Students of a public charter school are considered to be enrollees of the resident school district  
19 for the purposes of the resident school district's ANB count.

#25 20 ~~(5)(4)~~ For each student attending a public charter school, the superintendent of public instruction shall  
21 pay to that public charter school an amount equal to 65% OF the per-pupil average, but not the per-ANB  
22 average, of total ANNUAL school expenditures for the student's resident school district ~~for the previous school~~  
#26 23 ~~year, NOT TO EXCEED \$8,000~~. The superintendent of public instruction shall determine this figure BASED ON  
#27 24 THE MOST CURRENT AVAILABLE DATA. Funds to be included in total school expenditures must include:

- 25 (a) general fund;
- 26 (b) transportation;
- 27 (c) bus depreciation;
- 28 (d) food services;
- 29 #28 ~~(e) tuition;~~
- 30 (f) retirement;

1 (g) miscellaneous programs;

2 ~~#29~~ ~~(h) traffic education;~~

3 (i) nonoperating;

4 ~~#30~~ ~~(j) lease-rental agreement;~~

5 (k) compensated absence fund;

6 (l) metal mines tax reserve;

7 (m) state mining impact;

8 (n) impact aid;

9 ~~#31~~ ~~(o) litigation reserve;~~

10 ~~#32~~ (p) technology acquisition; AND

11 (q) flexibility fund;

12 ~~— (r) debt service;~~

~~#33~~ 13 ~~— (s) building reserve; and~~

14 ~~— (t) interlocal agreement.~~

15 ~~(6)(5)~~ Payment of the amount described in subsection (5) must be made by the superintendent of public  
16 instruction to the public charter school in 10 equal monthly payments, payable by the last day of the month,  
17 beginning in August of each school year and continuing through May of each school year.

18 ~~(7)(6)~~ If the per-pupil funding payments from the superintendent of public instruction to the public charter  
19 school are not made by the sixth day of the month following the month the payment was due, a penalty of \$10  
20 per student must be assessed and will continue to accrue at the same rate for each week the payment is late.

21 ~~(8)(7)~~ The superintendent of public instruction shall deduct the amount described in subsection (5) from  
22 the resident school district's aid payments in 10 equal monthly payments beginning in August of each year and  
23 continuing through May of each year.

24 ~~(9)(8)~~ A public charter school may expend funds according to its charter contract and is not subject to  
25 budget restrictions under Title 20, chapter 9.

26 ~~(10)(9)~~ A public charter school may obligate the public charter school to indebtedness and is solely  
27 responsible for those debts. A public charter school is not responsible for any debt service obligations that exist  
28 in the school district in which the public charter school is located.

29 ~~(11)(10)~~ Nothing in [sections 1 through 18] may be construed to prohibit any person or organization from  
30 providing funding or other assistance for the establishment or operation of a public charter school. The governing

board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift, donation, or grant may not be accepted if the gift, donation, or grant is subject to a condition that is contrary to any provision of law or term of the charter contract.

~~(12)~~(11) Money received by a public charter school from any source and remaining in the public charter school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the public charter school in subsequent years.

**NEW SECTION. Section 16. Public charter school facility revolving loan account -- rulemaking.**

(1) There is a special revenue account to be known as the public charter school facility revolving loan account to be administered by the commission. The public charter school facility revolving loan account is composed of state, federal, and other funds obtained for public charter schools, loan repayments, and any other funds appropriated or transferred to the account by the state. Any interest earned by the account or generated from a loan repayment must be deposited in the account.

(2) (a) The commission may provide loans from funds in the public charter school facility revolving loan account to a public charter school upon application by a public charter school and approval by the authorizer.

(b) Money loaned to a public charter school pursuant to this section is for construction, purchase, renovation, and maintenance of public charter school facilities.

(c) A loan to a public charter school may not exceed \$20 million over 15 years. A public charter school may receive multiple loans from the public charter school facility revolving loan account, as long as the total amount received from the account is within the conditions provided in this section.

(3) The authorizer and commission may consider all of the following when making a determination as to the approval of a public charter school's loan application:

(a) soundness of the financial business plans of the public charter school;

(b) availability of other sources of funding to the public charter school;

(c) geographic distribution of loans made from the public charter school facility revolving loan account;

(d) the impact that loans received pursuant to this section will have on the public charter school's receipt of other private and public financing;

(e) plans for innovative enhancement or leveraging of funds received pursuant to this section, such as loan guarantees or other types of credit enhancements; and

(f) the financial needs of the public charter school.

(4) Commencing with the first fiscal year following the fiscal year the public charter school receives the loan, the public charter school shall repay the loan in equal annual amounts over a number of years agreed upon between the public charter school and the commission.

(5) In the case of default of a loan made directly to a public charter school pursuant to this section, the public charter school is solely liable for repayment of the loan.

(6) The commission may adopt rules to implement this section.

**NEW SECTION. Section 17. Public charter school access to district facilities and land.** (1) A public charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or an unused portion of a public school facility or property located in a school district from which the public charter school draws its students.

(2) A public charter school may negotiate and contract at or below fair market value with a school district, the governing body of a college or university or community college, or any other public entity or for-profit or nonprofit private entity for the use of a facility for a school building.

**NEW SECTION. Section 18. Public charter school endowment account -- rulemaking.** (1) There is a special revenue account to be known as the public charter school endowment account administered by the commission. The purpose of the account is the receipt and expenditure of gifts, grants, legacies, devises, and donations given specifically for the creation and operation of the Montana public charter school system but not given to the public charter school facility revolving loan account provided for in [section 16].

(2) All donations must be from a private source and may not be expended for any purpose other than for the benefit of qualifying public charter schools as determined by the commission. A gift, donation, or grant made directly to a public charter school or schools is not prohibited by this subsection.

(3) The commission may adopt rules to implement this section.

**Section 19.** Section 15-6-201, MCA, is amended to read:

**"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

- 1 (i) the United States, except:
- 2 (A) if congress passes legislation that allows the state to tax property owned by the federal government
- 3 or an agency created by congress; or
- 4 (B) as provided in 15-24-1103;
- 5 (ii) the state, counties, cities, towns, and school districts;
- 6 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
- 7 (iv) municipal corporations;
- 8 (v) public libraries;
- 9 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- 10 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
- 11 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
- 12 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
- 13 used exclusively by the tribe for essential government services. Essential government services are tribal
- 14 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public
- 15 transit, and public parks and recreational facilities.
- 16 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious
- 17 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with
- 18 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,
- 19 which must be identified in the application, and all land and improvements used for educational or youth
- 20 recreational activities if the facilities are generally available for use by the general public but may not exceed 15
- 21 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,
- 22 or subdivision requirements;
- 23 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized
- 24 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used
- 25 exclusively for religious purposes;
- 26 (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain
- 27 or profit;
- 28 (e) property, not to exceed 80 acres, which must be legally described in the application for the
- 29 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the
- 30 use of students in attendance and other structures necessary for the operation and maintenance of an

- 1 educational institution that:
- 2 (i) is not operated for gain or profit;
- 3 (ii) has an attendance policy; and
- 4 (iii) has a definable curriculum with systematic instruction;
- 5 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing
- 6 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);
- 7 (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the
- 8 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care
- 9 facility that is not licensed by the department of public health and human services and organized under Title 35,
- 10 chapter 2 or 3, is not exempt.
- 11 (h) property that is:
- 12 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
- 13 21; or
- 14 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and
- 15 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
- 16 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 17 (iii) not maintained and not operated for gain or profit;
- 18 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 19 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 20 charitable purposes;
- 21 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 22 Montana;
- 23 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 24 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 25 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 26 irrigation of agricultural land;
- 27 (m) the right of entry that is a property right reserved in land or received by mesne conveyance
- 28 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
- 29 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 30 (n) (i) property that is owned and used by a corporation or association organized and operated

exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit; ~~and~~

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(p) property leased, owned, or used by a public charter school established pursuant to [sections 1 through 18].

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, not to exceed 15 acres, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

1 (c) For the purposes of subsection (1)(i):

2 (i) the term "institutions of purely public charity" includes any organization that meets the following  
3 requirements:

4 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
5 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
6 Revenue Code, as amended.

7 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
8 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
9 performances or entertainment or by other similar types of fundraising activities.

10 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
11 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
12 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
13 with the department a copy of its federal tax return reporting any unrelated business taxable income received  
14 by the charity during the tax year, together with a statement indicating whether the exempt property was used  
15 to generate any unrelated business taxable income.

16 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even  
17 if the property must be improved before it can directly be used for its intended charitable purpose. If the property  
18 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if  
19 the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the  
20 property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the  
21 property shall pay an amount equal to the amount of the tax due that year times the number of years that the  
22 property was tax-exempt under this section. The amount due is a lien upon the property and when collected  
23 must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the  
24 property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and  
25 recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to  
26 this section has been granted. The notice must describe the penalty for default under this section and must  
27 specify that a default under this section will create a lien on the property by operation of law. The notice must  
28 be on a form prescribed by the department.

29 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally  
30 applied for after December 31, 2004. An application for exemption under this section must contain a legal

1 description of the property for which the exemption is requested.

2 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and  
3 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
4 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes  
5 all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably  
6 necessary for use in connection with the public display or observatory use. Unless the property is leased for a  
7 profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and  
8 personal property owned by other persons is exempt if it is:

9 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

10 (ii) held for future display; or

11 (iii) used to house or store a public display."

12  
13 **Section 20.** Section 20-1-101, MCA, is amended to read:

14 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following  
15 definitions apply:

16 (1) "Accreditation standards" means the body of administrative rules governing standards such as:

17 (a) school leadership;

18 (b) educational opportunity;

19 (c) academic requirements;

20 (d) program area standards;

21 (e) content and performance standards;

22 (f) school facilities and records;

23 (g) student assessment; and

24 (h) general provisions.

25 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is  
26 offered or for which a pupil is enrolled.

27 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana  
28 state university-Bozeman.

29 (4) "At-risk student" means any student who is affected by environmental conditions that negatively  
30 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

(6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(7) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(8) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(9) "County superintendent" means the county government official who is the school officer of the county.

(10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(11) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

(12) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

(14) "Offsite instructional setting" means an instructional setting at a location, separate from a main

1 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the  
2 district.

3 (15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable  
4 principal's endorsement that has been issued by the superintendent of public instruction under the provisions  
5 of this title and the policies adopted by the board of public education and who has been employed by a district  
6 as a principal. For the purposes of this title, any reference to a teacher must be construed as including a  
7 principal.

8 (16) "Public charter school" has the same meaning provided in [section 3].

9 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in  
10 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)  
11 but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under  
12 the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to  
13 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10  
14 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state  
15 at public expense.

16 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public  
17 schools while under the supervision of a teacher.

18 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and  
19 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as  
20 established by the board of public education.

21 ~~(19)~~(20) "Regents" means the board of regents of higher education.

22 ~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a  
23 nonprofit basis and includes any food service financially assisted through funds or commodities provided by the  
24 United States government.

25 ~~(21)~~(22) "State board of education" means the board composed of the board of public education and  
26 the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

27 ~~(22)~~(23) "State university" means Montana state university-Bozeman.

28 ~~(23)~~(24) "Student with limited English proficiency" means any student:

29 (a) (i) who was not born in the United States or whose native language is a language other than English;

30 (ii) who is an American Indian and who comes from an environment in which a language other than

English has had a significant impact on the individual's level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

~~(24)~~(25) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(25)~~(26) "System" means the Montana university system.

~~(26)~~(27) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(27)~~(28) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(28)~~(29) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(29)~~(30) "Trustees" means the governing board of a district.

~~(30)~~(31) "University" means the university of Montana-Missoula.

~~(31)~~(32) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

**Section 21.** Section 20-4-101, MCA, is amended to read:

**"20-4-101. System and definitions of teacher and specialist certification -- student teacher exception.** (1) In order to establish a uniform system of quality education and to ensure the maintenance of professional standards, a system of teacher and specialist certification must be established and maintained

under the provisions of this title and a person may not be permitted to teach in the public schools of the state until the person has obtained a teacher or specialist certificate or the district has obtained an emergency authorization of employment from the state. This requirement does not apply to teachers in public charter schools as provided in [section 14].

(2) As used in this part, "teacher or specialist certificate" means a certificate issued or applied for under 20-4-106. The term "teacher or specialist" refers to a person certified under 20-4-106.

(3) The certification requirement does not apply to a student teacher who is a student enrolled in an institution of higher learning approved by the board of regents of higher education for teacher training and who is jointly assigned by the institution of higher learning and the governing board of a district or a public institution to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated teacher.

(4) A student teacher, while serving a nonsalaried internship under the supervision of a certificated teacher, must be accorded the same protection of the laws as that accorded a certificated teacher and shall, while acting as a student teacher, comply with all rules of the governing board of the district or public institution and the applicable provisions of 20-4-301 relating to the duties of teachers."

**Section 22.** Section 20-5-323, MCA, is amended to read:

**"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student

1 program costs for a Montana resident student; and

2 (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

3 (4) When a child attends a public school of another state or province, the amount of daily tuition may  
4 not be greater than the average annual cost for each student in the child's district of residence. This calculation  
5 for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the  
6 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal  
7 year. For the purposes of this subsection, the following do not apply:

8 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

9 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

10 (c) an order issued under Title 40, chapter 4, part 2; or

11 (d) out-of-state placement by a state agency.

12 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency  
13 making the placement is responsible for the education costs resulting from the placement.

14 (6) The amount, if any, charged for transportation may not exceed the lesser of the average  
15 transportation cost for each student in the child's district of residence or 35 cents a mile. The average  
16 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by  
17 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

18 (7) The provisions of this section do not apply to a public charter school established under [sections 1  
19 through 18]."

20

21 **Section 23.** Section 61-3-321, MCA, is amended to read:

22 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**  
23 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon  
24 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,  
25 semitrailers, and pole trailers as provided in subsections (2) through (20):

26 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light  
27 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

28 (a) if the vehicle is 4 or less years old, \$217;

29 (b) if the vehicle is 5 through 10 years old, \$87; and

30 (c) if the vehicle is 11 or more years old, \$28.

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158; and

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued on or after January 1, 2006, but before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), ~~or (1)(o), or (1)(p)~~, 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election

1 is made, the fee may not be collected at any subsequent annual registration unless the person makes the written  
2 election to pay the additional fee on one or more of the light vehicles.

3 (ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered  
4 to a different person.

5 (20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,  
6 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be  
7 collected and forwarded to the state for deposit in the account established in 44-1-504.

8 (21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed  
9 by 61-3-721."

10  
11 **Section 24.** Section 61-10-214, MCA, is amended to read:

12 **"61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire  
13 within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

14 (2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural  
15 worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively  
16 for transportation of agricultural workers are exempt from this part.

17 (3) Vehicles lawfully displaying a dealer's or wholesaler's plate as provided in 61-4-102 and 61-4-125  
18 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's  
19 place of business when unloaded or loaded with dealer's or wholesaler's property only or while being  
20 demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be  
21 leased, rented, or operated for compensation by the licensed dealer or wholesaler.

22 (4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k),  
23 (1)(l), (1)(n), ~~or (1)(o), or (1)(p)~~ or 15-6-228(4) are exempt from this part. The department of transportation may  
24 require documentation of tax-exempt status from the department of revenue before granting this exemption."

25  
26 **NEW SECTION. Section 25. Public charter school exemption.** A public charter school established  
27 under [sections 1 through 18] is exempt from the provisions of Title 20 except as explicitly set forth in [sections  
28 1 through 18].

29  
30 **NEW SECTION. Section 26. Nonseverability.** It is the intent of the legislature that each part of [this

act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

**NEW SECTION. Section 27. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**NEW SECTION. Section 28. Codification instruction.** (1) [Sections 1 through 18] are intended to be codified as an integral part of Title 20.

(2) [Section 25] is intended to be codified as an integral part of Title 20, chapter 1, part 2.

**NEW SECTION. Section 29. Effective date.** [This act] is effective July 1, 2013.

- END -